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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|-------------------------|-----------------------|
| 10/617,497 | 07/11/2003 | Steven H. Bertz | FDN-2769 | 3994 |
| 7590 | 01/27/2006 | | EXAMINER | NWAONICHA, CHUKWUMA O |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1621 | |
| | | | DATE MAILED: 01/27/2006 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/617,497 | BERTZ ET AL. |
| | Examiner | Art Unit |
| | Chukwuma O. Nwaonicha | 1621 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 and 12-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Current Status

Claims 1-5 and 12-15 are pending in the application.

Election/Restrictions

Applicant's election of Group I (Claims 1-5 and 12-15), and the cancellation of Groups 2 and 3 (claims 6-8 and 9-11) in the reply filed on 11/7/05 is acknowledged.

Applicants are reminded of their right to file divisional applications to the non-elected claims.

Applicants' are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Priority

Applicants' claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 12-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Kawasaki, {JP 2003137758}.

Kawasaki discloses a composition of an active or functional organic compound solubilized in a phenylethyl ester. See abstract.

Claims 1-5 and 12-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Boiziau et al., {WO 9323364}.

K Boiziau et al. disclose a composition of an active or functional organic compound solubilized in a phenylethyl ester. See abstract.

Claims 1-5 and 12-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Herrmann et al., {WO 2000058260 or US 6,589,921}.

Herrmann et al. disclose a composition of an active or functional organic compound solubilized in a phenylethyl ester. See compounds on column 20 of US 6,589,921.

Claims 1-5 and 12-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Trinh et al., {US 5,833,999}.

Trinh et al. disclose a composition of an active or functional organic compound solubilized in a phenylethyl ester. See columns 4-6, tables 1 and 2.

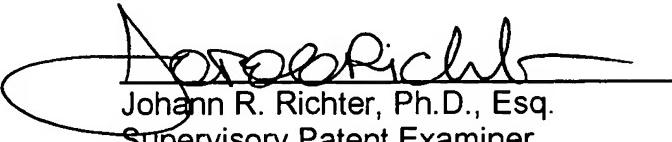
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chukwuma O. Nwaonicha whose telephone number is

571-272-2908. The examiner can normally be reached on Monday thru Friday, 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chukwuma O. Nwaonicha, Ph.D.
Patent Examiner
Art Unit: 1621



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Technology Center 1600